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SUBJECT: NATIONAL ASSEMBLY VOTES ON STATE OF EMERGENCY IN
EKITI

REF: LAGOS 1297

Classified By: Political Counselor Russell J. Hanks for reasons 1.4 (b
and d)

¶1. (C) SUMMARY. In a surprise move, both chambers of the National Assembly voted October 26 to approve the state of emergency declared by the President in Ekiti State. While the press reports that the Senate vote was unanimous, Embassy contacts indicate that the results were questionable and possibly a violation of established Assembly procedures. As a result, procedural questions remain outstanding and many members of the National Assembly came away with hurt feelings or worse. Perhaps most troubling are the legal and procedural questions arising from the vote and the increased level of cynicism about the prospects for elections in 2007.
END SUMMARY.

¶2. (C) Press reports indicate that the Senate vote was unanimous. However, this assertion is difficult to believe. Prior to the vote, PolOff spoke to 2 Senators, both long-standing opponents of the President, who declared that they could never vote for the state of emergency (SOE). They saw it as an attempt by the President to extend his term in office. Other members echoed these statements. Press reports say that the Senators reached a deal in executive session where the President promised to not declare further SOEs. Additionally, the President agreed to consult Senate leaders before declaring another SOE. One Senator pointed out that such promises have in the past proved to be "worthless."

¶3. (C) At best, the vote showed strong arm tactics by the Presidency in order to secure approval for the Ekiti SOE. Prior to the chambers convening, members who were opposed to the state of emergency were in the lobby and available for interview. The PDP caucus, however, was meeting privately to discuss strategy to secure approval of the action. One House member told PolOff that President Obasanjo had talked to the them the previous evening to demand that PDP members vote in favor of the SOE. We later received confirmation that the President also met with Senate members.

¶4. (C) According to a member who attended the PDP caucus meeting on October 25, Obasanjo told the members that he had known about corruption issues surrounding Ekiti Governor Ayo Fayose for more than three years. When one member asked Obasanjo why he had not already taken action, the President became visibly angry and told the member to "shut up." Another PDP caucus member described the President's tirade as "venomous," and quoted the president as saying, "Any of you who vote against it will not get the nomination (for re-election) in my PDP." In a conversation with PolCouns, one member said, "it is obvious that this man (Obasanjo) does

not plan to go anywhere in 2007." PolOff and PolFSNs spoke to a number of Senators and House members in the national assembly building on the 26th. Each of these people said that Obasanjo was behind the impeachment in Ekiti, with most saying he had "laid a trap" for the state government. The trap allowed him to declare an SOE when multiple people claimed to be governor. The consensus opinion prior to the Senate's deal was that if this SOE was allowed to stand, Obasanjo would later declare SOEs in Plateau and possibly Anambra states.

15. (C) At worst, the vote shows an open breach of standard procedure in the National Assembly. The only thing we can say with confidence about the Senate vote is that it would have been difficult to build a unanimous consensus in one day on a vote to which many members were openly hostile. The picture on the House side, however, is somewhat more clear. One member spoke with PolCouns after the vote and said that when the House went in to executive session, it quickly became clear that there were not enough votes to sustain the measure. The House broke, the PDP members caucused, and then the House reconvened in executive session. While media reports indicate various members saying a vote was taken, those reports do not provide uniform vote tallies. Our contact says that is because a result was simply announced.

16. (C) Even if the vote was taken in good faith, we believe there was another procedural problem. Paragraph 4 of reftel reports that the approval had to come from a "two-thirds majority of all members of each House." Media reports indicate that 82 members of the Senate were present, and this is consistent with PolOff's observation from the gallery before the Senate went in to executive session. If the vote was unanimous or nearly so, two thirds would be possible.

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However, reports indicate that less than one-half of the House was present. PolOff was not in the House gallery, but there seemed to be sparse attendance from the traffic through the lobby. Contacts in the national assembly told PolCouns that "far fewer" than two-thirds of the members were present.

Anecdotally, two of PolOff's contacts in the House sent him text messages saying they were traveling in their constituencies and would not be present for the vote. Thus, two-thirds approval of "all members" would be impossible even if everyone voted in favor of the resolution. All reports indicate that the House recorded some votes against the bill.

17. (C) COMMENT. Nigerians are engaged in widespread speculation that the state of emergency in Ekiti State is part of the plan by President Obasanjo to create unstable conditions in the country, allowing him to declare a broader state of emergency and thus extend his time in office. More troubling are the legal and procedural questions raised by the irregularities in this vote as well as the political implications of its outcome. The Nigerian Bar Association previously opined that the entire concept is invalid under the constitution and the subversion of the National Assembly's Rules of Order raise serious questions about transparency in governance and the legality of many actions. The President and EFCC Chairman Ribadu also made comments publicly and privately to the effect that the ends justify the means regardless of rule of law issues, another troubling aspect. Further, with the heated political climate and the uncertainties over Obasanjo's 2007 intentions, declaring a state of emergency in Ekiti state and attacking the regime's political rivals could tend to polarize the ruling elite, agitate the populace and encourage untoward activities by the security services, either in support of or against the current government. END COMMENT.
CAMPBELL